

APPEAL

United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:03-cv-12379-MLW

Zipperer v. Raytheon Company
Assigned to: Chief Judge Mark L. Wolf
Cause: 29:1145 E.R.I.S.A.

Date Filed: 11/25/2003
Jury Demand: Defendant
Nature of Suit: 791 Labor:
E.R.I.S.A.
Jurisdiction: Federal Question

Plaintiff

Emory Zipperer

represented by **Joseph P. Dever**
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V.

Defendant

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Date Filed	#	Docket Text
11/25/2003	61	NOTICE OF REMOVAL by Raytheon Company from Middlesex Superior, case number 03-4225. \$ 150, receipt

		number 52047, filed by Raytheon Company.(Johnson, Jay) (Entered: 12/01/2003)
11/25/2003	•	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Bowler. (Johnson, Jay) (Entered: 12/01/2003)
11/26/2003	•2	ASSENTED TO MOTION for Extension of Time to 12/20/03 to File Answer to 1 Notice of Removal by Raytheon Company, FILED, c/s.(Boyce, Kathy) (Entered: 12/29/2003)
12/22/2003	•3	ANSWER to Complaint (Notice of Removal) by Raytheon Company, FILED, c/s. (Boyce, Kathy) (Entered: 01/07/2004)
12/29/2003	•	Judge Mark L. Wolf : Electronic ORDER entered granting 2 Motion for Extension of Time to Answer Raytheon Company. (O'Leary, Dennis) (Entered: 12/29/2003)
01/08/2004	•4	STATE COURT Record Raytheon Company served on 11/3/2003 (Attachments: # 1)(Boyce, Kathy) (Entered: 01/14/2004)
03/03/2004	•5	Judge Mark L. Wolf : MEMORANDUM and ORDER. The parties are ordered to inform the court by March 26, 2004 whether they consent to a transfer of this case to the Magistrate Judge for all purposes. (Attachments: # 1)(O'Leary, Dennis) (Entered: 03/03/2004)
03/25/2004	•6	Letter dated 3/25/04 from Stephen S. Churchill reporting that deft Raytheon Company does not consent to a transfer of this cas to the Magistrate Judge, FILED. (Boyce, Kathy) Modified on 4/2/2004 (Boyce, Kathy). (Entered: 04/02/2004)
04/06/2004	•7	Judge Mark L. Wolf : ORDER entered REFERRING CASE to Magistrate Judge Marianne B. Bowler Referred for: Pre-trial Purposes(O'Leary, Dennis) (Entered: 04/06/2004)
04/23/2004	•8	NOTICE of Hearing: Status Conference set for 5/5/2004 02:00 PM in Courtroom 25 before Magistrate Judge Marianne B. Bowler. (Saccoccio, Dianalynn) (Entered: 04/23/2004)
05/05/2004	•	Electronic Clerk's Notes for proceedings held before Judge Marianne B. Bowler : Status Conference held on 5/5/2004. Joseph Dever for the plaintiff; Steven Churchill for the defendant; Parties submit proposed schedule to the court and will file original with the clerks' office; Court will adopt this

		schedule; Status conference set for November 8, 2004 at 2:30 PM (Tape #Digital.) (Saccoccio, Dianalynn) (Entered: 05/05/2004)
05/05/2004	⑨	JOINT STATEMENT of counsel for Local Rule 16.1 Conference, FILED, c/s. (Boyce, Kathy) (Entered: 05/11/2004)
05/27/2004	⑩	CERTIFICATION pursuant to Local Rule 16.1 by Emory Zipperer filed, c/s.(Boyce, Kathy) (Entered: 06/01/2004)
09/29/2004	⑪	ASSENTED TO MOTION to Modify Statement for Rule 16.1 Conference by Emory Zipperer, FILED, c/s.(Boyce, Kathy) (Entered: 10/04/2004)
10/05/2004	⑬	Judge Marianne B. Bowler: Electronic ORDER entered granting <u>11</u> Motion for Modification. (Bowler, Marianne) (Entered: 10/05/2004)
11/08/2004	⑭	Electronic Clerk's Notes for proceedings held before Magistrate Judge Marianne B. Bowler: Status conference held on 11/8/2004; Joseph Dever for the pltf. and Constance McGrane for deft.; Parties address status of the case with the court and court amends the schedule; Status conference set for 4/21/2005 at 2:30 PM; Parties to file amended schedule. (Tape #Digital.) (Saccoccio, Dianalynn) (Entered: 11/08/2004)
11/08/2004	⑯	NOTICE of Appearance by Joseph P. Dever on behalf of Emory Zipperer, FILED In OPEN COURT (Boyce, Kathy) Modified on 11/12/2004 to correct filing date (Boyce, Kathy). (Entered: 11/12/2004)
11/10/2004	⑯	NOTICE of Appearance by Constance M. McGrane on behalf of Raytheon Company (McGrane, Constance) (Entered: 11/10/2004)
11/29/2004	⑯	ASSENTED MOTION for Extension of the deadlines for the discovery plan as the pltf needs addional time to complete his discovery plan by Emory Zipperer, FILED, c/s.(Boyce, Kathy) (Entered: 11/30/2004)
12/01/2004	⑯	Judge Marianne B. Bowler: Electronic ORDER entered granting <u>14</u> Motion for Extension of Time. (Bowler, Marianne) (Entered: 12/01/2004)
02/15/2005	⑯	MOTION to Amend the Discovery Plan re <u>9</u> Joint statement of counsel for the Local Rule 16.1 Conference by Emory Zipperer, FILED, c/s.(Boyce, Kathy) (Entered: 02/15/2005)

02/28/2005	• 16	Opposition re <u>15</u> MOTION to Amend <u>9</u> Joint statement of counsel to <i>Extend Discovery Deadline</i> filed by Raytheon Company. (McGrane, Constance) (Entered: 02/28/2005)
03/01/2005	•	NOTICE of Hearing; <u>15</u> Plaintiff's Motion to Revise Discovery Plan in Statement for Local Rule 16.1 Conference; Motion hearing set for 3/21/2005 at 2:30 PM in Courtroom 25 before Magistrate Judge Marianne B. Bowler. (Saccoccio, Dianalynn) (Entered: 03/01/2005)
03/01/2005	• 17	MOTION for Judgment on the Pleadings by Raytheon Company. (Attachments: # <u>1</u> Memorandum in Support of Defendant's Motion for Judgment on the Pleadings# <u>2</u> Affidavit of Evans W. Cheeseman, Jr.)(McGrane, Constance) (Entered: 03/01/2005)
03/07/2005	• 18	Judge Mark L. Wolf : ORDER entered. REFERRING CASE to Magistrate Judge Marianne B. Bowler Referred for: Report and Recommendation on Defendant's Motion for Judgment on the Pleadings <u>17</u> (O'Leary, Dennis) (Entered: 03/07/2005)
03/15/2005	• 20	Opposition to <u>17</u> MOTION for Judgment on the Pleadings filed by Emory Zipperer, c/s. (Boyce, Kathy) (Entered: 03/21/2005)
03/15/2005	• 21	MOTION for Hearing re <u>17</u> MOTION for Judgment on the Pleadings by Emory Zipperer, FILED, c/s.(Boyce, Kathy) (Entered: 03/21/2005)
03/21/2005	• 19	Assented to MOTION to Continue Plaintiff's Motion to Revise Discovery Plan in Statement for Local Rule 16.1 Conference to 4/27/05 by Plaintiff Emory Zipperer filed as a Courtesy by Raytheon Company.(McGrane, Constance) (Entered: 03/21/2005)
03/22/2005	•	Judge Marianne B. Bowler: Electronic ORDER entered granting <u>19</u> Motion to Continue. (Bowler, Marianne) (Entered: 03/22/2005)
03/23/2005	•	Set/Reset Deadlines; <u>15</u> Plaintiff's Motion to Amend <u>9</u> Joint statement of counsel and <u>17</u> Defendant's Motion for Judgment on the Pleadings; Motion hearing reset for 4/27/2005 at 10:30 AM in Courtroom 25 before Magistrate Judge Marianne B. Bowler. (Saccoccio, Dianalynn) (Entered: 03/23/2005)
04/27/2005	•	Electronic clerk's notes for proceedings held before Magistrate Judge Marianne B. Bowler: Motion hearing held on 4/27/2005;

		<u>17</u> Motion for Judgment on the Pleadings filed by Raytheon Company; Joseph Dever for the pltf. and Connie McGrane for the deft.; The court hears argument on the motion and takes it under advisement. (Tape #Digital.) (Saccoccio, Dianalynn) (Entered: 04/27/2005)
06/01/2005	●	Motions terminated: <u>21</u> Motion for Hearing for <u>17</u> MOTION for Judgment on the Pleadings filed by Emory Zipperer; Hearing was held on 4/27/2005 (Saccoccio, Dianalynn) (Entered: 06/01/2005)
07/06/2005	●	Judge Marianne B. Bowler: Electronic ORDER entered finding as moot <u>15</u> Motion to Amend. (Bowler, Marianne) (Entered: 07/06/2005)
07/06/2005	● <u>22</u>	Judge Marianne B. Bowler: ORDER entered. REPORT AND RECOMMENDATION re <u>17</u> MOTION for Judgment on the Pleadings filed by Raytheon Company, Recommendation: ALLOWED with the caveat of allowing Zipperer 30 days from the date of this opinion to file a motion for leave to file an amended complaint raising one or more causes of action under ERISA. Objections to R&R due by 7/20/2005(Feeney, Eileen) (Entered: 07/06/2005)
07/15/2005	● <u>23</u>	OBJECTIONS to <u>22</u> Report and Recommendations RE: Deft's Motion for Judgment on the Pleadings, filed by Emory Zipperer, c/s. (Boyce, Kathy) (Entered: 07/19/2005)
07/20/2005	● <u>24</u>	REPLY TO OBJECTION to <u>22</u> Report and Recommendations filed by Raytheon Company. (McGrane, Constance) (Entered: 07/20/2005)
12/12/2005	●	Case no longer referred to Magistrate Judge Marianne B. Bowler (Report and Recommendation entered on 7/6/05). (Hurley, Virginia) (Entered: 12/12/2005)
03/30/2006	● <u>25</u>	Judge Mark L. Wolf : ORDER entered granting <u>17</u> Motion for Judgment on the Pleadings, Affirming <u>22</u> Report and Recommendations. Accordingly, it is hereby ORDERED that:1. The defendants' Motion for judgment on the pleadings (Docket No. 17) is ALLOWED. However, the plaintiff is granted leave to amend his complaint, if he can consistent with Federal Rule of Civil Procedure 11 state a claim on which relief can be granted.2. The plaintiff shall file any amended complaint by April 28, 2006.3. The defendant shall answer or file a motion to dismiss any amended complaint by May 30,

		2006. (Attachments: # 1) (O'Leary, Dennis) (Entered: 03/31/2006)
03/31/2006	•26	NOTICE of Withdrawal of Appearance by Stephen S. Churchill (Churchill, Stephen) (Entered: 03/31/2006)
08/09/2006	•27	Judge Mark L. Wolf : ORDER entered. JUDGMENT in favor of Raytheon Company against Emory Zipperer(O'Leary, Dennis) (Entered: 08/09/2006)
09/07/2006	•28	Letter/request (non-motion) from Joseph Dever re his difficulty in sending documents electronically, FIELD. (Boyce, Kathy) (Entered: 09/07/2006)
09/07/2006	•29	NOTICE OF APPEAL as to <u>27</u> Judgment by Emory Zipperer. \$ 455 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 9/27/2006. (Boyce, Kathy) (Entered: 09/07/2006)
09/27/2006	•30	NOTICE by Emory Zipperer that no transcript will be ordered re 29 Notice of Appeal, FILED, c/s. (Boyce, Kathy) (Entered: 10/05/2006)